

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

FRANCIS X. DELUCA,

Plaintiff,

v.

NORTH CAROLINA STATE BOARD OF  
ELECTIONS; KIM WESTBROOK STRACH,  
in her official capacity as Executive Director of  
the State Board; and A. GRANT WHITNEY,  
RHONDA K. AMOROSO, JOSHUA D.  
MALCOLM, JAMES BAKER, and MAJA  
KRICKER, in their official capacities as  
members of the State Board of Elections,

Defendants,

and

LEAGUE OF WOMEN VOTERS OF  
NORTH CAROLINA, NORTH CAROLINA  
A. PHILIP RANDOLPH INSTITUTE,  
COMMON CAUSE NORTH CAROLINA,  
KAY BRANDON, SARA STOHLER, HUGH  
STOHLER, ANTHONY MIKHAIL LOBO,  
ANNA JAQUAYS, and MICHAEL T.  
KUYKENDALL,

Proposed Defendant-Intervenors.

No. 5:16-cv-913

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**[PROPOSED] MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), the League of Women Voters of North Carolina, North Carolina A. Philip Randolph Institute, Common Cause North Carolina, Kay Brandon, Sara Stohler, Hugh Stohler, Anthony Mikhail Lobo, Anna Jaquays, and Michael T. Kuykendall (“proposed Defendant-Intervenors”) respectfully submit this Motion to Dismiss all the claims stated in the complaint in this action.

As set forth in the accompanying Memorandum in Support of Motion to Dismiss, proposed Defendant-Intervenors seek to dismiss Plaintiff's Complaint and oppose any requested court-ordered injunction regarding counting of ballots from voters who utilized North Carolina's same-day registration process. For the reasons stated in the Memorandum, no such court action is appropriate given the clear ruling of the U.S. Court of Appeals for the Fourth Circuit in *League of Women Voters v. North Carolina* ("LWV"), 831 F.3d 204, 237 (4th Cir. 2016) (reinstating North Carolina's same-day registration in a Voting Rights Act and equal protection challenge), and Plaintiff fails to state a cause of action either under the National Voter Registration Act of 1993 ("NVRA"), 52 U.S.C. § 20501-20511 or the Equal Protection Clause of the Fourteenth Amendment. Moreover, dismissal is appropriate because this Court cannot grant the requested relief because that would be consistent with the Supreme Court's rule established in *Purcell v. Gonzalez*, 549 U.S. 1 (2006).

Respectfully submitted this 23rd day of November.

/s/ Allison J. Riggs

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## **CERTIFICATE OF SERVICE**

I certify that on this day I filed the foregoing **Proposed Motion to Dismiss** with the clerk's office via the CM/ECF system, which will send notification of filing to the following counsel of record:

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This the 23rd day of November, 2016.

/s/Allison J. Riggs  
Allison J. Riggs

*Counsel for Proposed  
Defendant-Intervenors*